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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,692	09/19/2003	Dean L. McClymonds	13.27461	4706
25208	7590	12/29/2005	EXAMINER	
JOHN W JORDAN IV GACA MATIS BAUM & RIZZA FOUR GATEWAY CENTER, 444 LIBERTY AVENUE SUITE 300 PITTSBURGH, PA 15222			TORRES, ALICIA M	
		ART UNIT		PAPER NUMBER
				3671
DATE MAILED: 12/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/664,692	MCCLYMONDS, DEAN L.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alicia M. Torres	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 7-10 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 7-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____.  | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fackrell et al. 6,609,356 in view of Ishii 5,918,691 and Keller 3,800,902.

Fackrell discloses a mowing device having:

- A frame (14, 16)
- A deck (11) attachable to the frame (14, 16) at different heights
- A cutting blade (178)
- A first pair of wheels (165, 168) attached to the right side of the frame (14)
- A second pair of wheels (165, 167) attached to the left side of the frame (16).

However, Fackrell fails to disclose:

- A first hydraulic motor mounted on the right side of the frame connected to a first remotely controlled hydraulic pump and the first pair of ground wheels
- A second hydraulic motor mounted to the left side of the frame connected to a second remotely controlled hydraulic pump, operated independently of the first hydraulic pump, and the second pair of ground wheels
- A two cycle gasoline internal combustion engine
- A clutch connecting the engine to the cutting blade.

Ishii discloses a mowing device having a first hydraulic motor (MR) connected to a first Hydraulic pump (PR) and a right pair of wheels (59, 61 at 7R). Ishii also discloses a second hydraulic motor (ML) connected to a second pump (PL) and a left pair of wheels (59, 61 at 7L). The second hydraulic pump (PL) is controlled independently of the first hydraulic pump (PR). The mowing device further includes a two cycle gasoline engine (E) connected to the cutting blade via a clutch (40).

Keller discloses a traditional user operated lawnmower that has been converted to remote control.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the two hydraulic systems of Ishii on the mowing device of Fackrell in order to change the traveling direction of a vehicle.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a remote control conversion as taught by Keller for the speed and direction control and for the engine and clutch of the mowing device of Fackrell in order to relieve physical exertion and discomfort.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fackrell, Ishii and Keller as applied to claim 7 above, and further in view of Cartner 4,445,312.

The device is disclosed as applied above. However, the combination fails to disclose a retractable segment on the deck and remotely controlled means for raising and lowering the retractable segment.

Cartner discloses a mower with a retractable segment (80) that can be raised and lowered.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the retractable segment of Cartner on the device of Fackrell, Ishii and Keller in order to provide a way to escape obstructions.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a remote control conversion as taught by Keller for the retractable segment control in order to relieve physical exertion and discomfort.

***Response to Arguments***

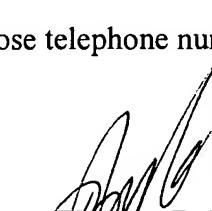
4. Applicant's arguments with respect to claims 7-10 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.



Thomas B. Will  
Supervisory Patent Examiner  
Group Art Unit 3671